

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

EMMITT GRIER JR.,

FILED

Plaintiff

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C.A. 05-05 ERIE

v.

CLERK
U.S. DISTRICT COURT

Judge Maurice B. Cohill Jr.

EDWARD J. KLEM, et al.,

Defendants

**PLAINTIFF'S COUNTER MOTION
FOR SUMMARY JUDGMENT PURSUANT
TO FED. RULES CIV. PROC. 56.(1)**

AND NOW comes the plaintiff Emmitt Grier Jr., who files this counter motion for summary judgment pursuant to Fed. Rules of Civ. Proc. 56. (1); and in support thereof states the following:

PRELIMINARY STATEMENT

1. Plaintiff moves with this motion for summary judgment because the facts of the case are not in dispute. Only the issue is being obscured by the District Attorney's Office.

2. Plaintiff provides proof from the record that identification is clearly an issue. Albeit, one the District Attorney wants to ignore.

3. Plaintiff claims a Due Process of law deprivation because of the defendants refusal to release the biological evidence in their possession for DNA testing.

4. Plaintiff claims an Equal Protection of the Law deprivation because defendants will not allow plaintiff to make a conclusive showing that he is innocent of the crimes for which he is incarcerated, (The disputed Rapes) thereby preventing plaintiff from access to the state and federal court to obtain legal relief, in violation of the Due Process and Equal Protection guarantees of the fourteenth Amendment.

5. Plaintiff also claims that he was deprived of the opportunity to make a conclusive showing of actual innocence, in violation of the Cruel and Unusual Punishment Clause of the Eighth Amendment.

Respectfully Submitted.

Emmitt Grier, Jr.
Emmitt Grier, Jr., pro se,
No. EJ-7879
SCI-Mahanoy
301 Morea Road
Frackville, PA. 17932

3-27-06
date:


CERTIFICATE OF SERVICE

I hereby certify that I am placing in the U.S. mail box located at (the front of my cell block) a true and correct copy of Plaintiff's Reply Brief, Plaintiff's Counter Motion and Brief with Statement of Material Facts, in Support of Summary Judgment Pursuant to Fed. R. Civ. P. (L.R. 56.1); for service upon the person(s) listed below.

**Service by certified mail
Addressed as follows:**

United States District Court
For the Western District of PA.
Hon. Judge Maurice B. Cohill Jr.
17 S. Park Row, Room 206
Erie, Pennsylvania 16501

Matthew J. McLaughlin
246 West Tenth Street
Erie Pennsylvania. 16501
Counsel for Defendant,
Office of Dist. Attorney


Emmitt Grier Jr., pro se,
No. EJ-7879
SCI-Mahanoy
301 Morea Road
Frackville, Pa. 17932

3-27-06
date: